

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAR 03 2008

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

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Attorneys for Defendants

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARK A. HOLUM, an individual,

Plaintiff,

vs.

EXTENDICARE HOMES, INC., a
corporation; EXTENDICARE
HEALTH SERVICES, INC., a
corporation, and EXTENDICARE
HEALTH FACILITIES, INC., a
corporation,

Defendants.

No. **CV-08-081-EFS**

DEFENDANTS' NOTICE OF
REMOVAL

(Spokane County Superior Court Case
No. 07-02-05435-3)

Defendants hereby file this Notice of Removal of the above-described action
to the United States District Court for the Eastern District of Washington from the

1 Spokane County Superior Court where the action is now pending as provided by
2 Title 28, U.S. Code Chapter 85 and state:
3

4 I.

5 Defendants Extendicare Homes, Inc., Extendicare Health Services, Inc. and
6 Extendicare Health Facilities, Inc. are the named defendants in the above-entitled
7 action.
8

9 II.

10 A civil action was commenced in the Spokane County Superior Court in and
11 for the State of Washington, Cause No. 07-02-05435-3 against defendants and is
12 now pending in that court. The original Summons and Complaint and Amended
13 Summons and Complaint were served on the Lexis Document Services, Inc. as
14 registered agent for Extendicare Homes, Inc. in the State of Washington, by
15 personal service on February 14, 2008 (copy of original Summons and Complaint
16 attached as Exhibit No. 1; copy of Amended Summons and Complaint attached as
17 Exhibit No. 2). The original Summons and Complaint and Amended Summons
18 and Complaint were served on the Corporation Service Company as registered
19 agent for Extendicare Health Services, Inc. in the State of Washington, by personal
20 service on February 14, 2008. The original Summons and Complaint and
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1 Amended Summons and Complaint were served on the Corporation Service
2 Company as registered agent for Extendicare Health Facilities, Inc. in the State of
3 Washington, by personal service on February 14, 2008.
4

5 III.

6 The Spokane County Superior Court suit is a civil action to recover damages
7 due to plaintiff's alleged personal injuries which he claims resulted from
8 defendants' negligence, which allegedly included special damages and general
9 damages for pain and suffering. Plaintiff requested judgment against defendants
10 for such sums that will wholly compensate him for his damages, along with costs
11 and attorneys fees.
12
13

14 IV.

15 This action is a civil proceeding of which this court has original jurisdiction
16 pursuant to 28 U.S.C. § 1332, and defendants are now entitled to remove the action
17 to this federal court pursuant to 28 U.S.C. §§ 1441 and 1446, in that:
18

- 19 a. The amount in controversy exceeds the \$75,000 minimal
20 jurisdictional amount of the federal court in that plaintiff states claims
21 for general damages, special damages, and costs and attorney fees for
22 personal injuries resulting from his injuries in excess of \$75,000.
23
24

1 While the plaintiff has not yet responded to a request for an amount of
2 damage, the amount exceeds the jurisdictional amount based on the
3 following:
4

5 i. Plaintiff's counsel, in a discussion with defendants' counsel,
6 indicated plaintiff is seeking damages in excess of \$75,000 (see
7 Aff. of Patrick Cronin, ¶ 2);
8

9 b. This action is between citizens of different states;

10 c. Plaintiff, as alleged in the complaint, is a citizen of the state of
11 Washington;
12

13 d. Defendants are Delaware corporations and have been incorporated in
14 the state of Delaware with their principal place of business being in
15 Wisconsin. Accordingly, pursuant to 28 U.S.C. § 1332(c)(1),
16 defendants are not citizens of the state of Washington;
17

18 f. Defendants were served with the Summons and Complaint on
19 February 14, 2008, and this action was removed within 30 days of the
20 receipt of the Summons and Complaint by service;
21

22 h. This action was originally brought in Spokane County Superior Court
23 which is within the district of this federal court.
24

V.

The following documents constitute all of the documents, process, and pleadings which were served upon the defendants in this action:

- a. Original Summons, attached hereto as Ex. 1;
- b. Original Complaint, attached hereto as Ex. 1;
- c. Case Assignment Notice and Order, attached hereto as Ex. 3;
- d. Amended Summons, attached hereto as Ex. 2; and
- e. Amended Complaint for Damages, attached hereto as Ex. 2.

VI.

Defendants will give written notice of the filing of this notice as required by 28 U.S.C. §1446(d).

A copy of this Notice will be filed with the Clerk of the Spokane County Superior Court as required by 28 U.S.C. §1446(d).

WHEREFORE, defendants pray that this court accept this Notice of Removal and that the above entitled action now pending in the Superior Court of Washington, County of Spokane, Cause No. 07205435-3, be removed from the

1 Spokane County Superior Court to the United States District Court for the Eastern
2 District of Washington.

3 DATED this 3rd day of March, 2008.

4
5 
6 s/Patrick J. Cronin, WSBA #28254

7 s/Lucinda S. Whaley, WSBA #07911

8 WINSTON & CASHATT
9 Attorneys for Defendants
10 601 W. Riverside, Ste. 1900
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14 Email Add.: pjc@winstoncashatt.com
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VERIFICATION

STATE OF WASHINGTON)

: ss.

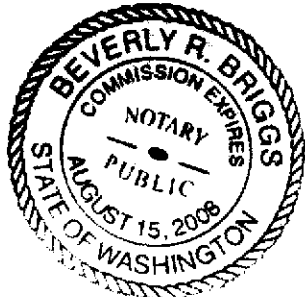
County of Spokane)

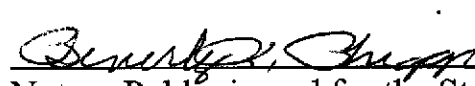
PATRICK J. CRONIN, being first duly sworn upon oath, deposes and says:

I am the attorney for defendants and I am authorized to and make this verification for and on their behalf for the reason that I have read the above and foregoing Notice for Removal and know the contents of it and believe it to be true.


PATRICK J. CRONIN

SUBSCRIBED and sworn to before me this 3rd day of March, 2008.




Notary Public in and for the State of
Washington, residing at Spokane Valley
My commission expires: 8/15/08

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington that on the 3rd day of March, 2008, at Spokane, Washington, the foregoing was caused to be served on the following person(s) in the manner indicated:

Marcia M. Meade Dawson & Meade 1310 W. Dean Ave. Spokane, WA 99201 Attorneys for Plaintiff	VIA REGULAR MAIL <input checked="" type="checkbox"/> VIA CERTIFIED MAIL <input type="checkbox"/> HAND DELIVERED <input type="checkbox"/> BY FACSIMILE <input checked="" type="checkbox"/> VIA FEDERAL EXPRESS <input type="checkbox"/>
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 Beverly R. Briggs

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